

EUGENE M. GOATCHER

IBLA 81-659

Decided October 19, 1981

Appeal from decision of the California State Office, Bureau of Land Management, declaring mining claims abandoned and void. CA MC 25786 and CA MC 25787.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in the county recorder's office is not compliance with the recordation requirements of 43 CFR 3833.2-1.

3. Notice: Generally--Regulations: Generally

Those who deal with the Government are presumed to have knowledge of the law and regulations duly adopted pursuant thereto.

APPEARANCES: Eugene M. Goatcher, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Eugene M. Goatcher appeals a decision of the California State Office, Bureau of Land Management (BLM), dated April 27, 1981, which declared the unpatented Gunder No. I and Gunder No. II lode mining claims (CA MC 25786 and CA MC 25787) 1/ abandoned and void because evidence of assessment work or notice of intent to hold the claims had not been filed with BLM on or before December 30, 1980, as required by 43 CFR 3833.2-1. -

In the statement of reasons appellant asserts that proof of labor was filed with the State of California but that he did not know that the evidence of assessment work must also be filed with BLM.

[1] The pertinent regulation, 43 CFR 3833.2-1(c), requires the owner of an unpatented mining claim located on Federal lands after October 21, 1976, to file in the proper BLM office, evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the claim, on or before December 30 of each year following the calendar year in which the claim was located. See 43 U.S.C. § 1744(a) (1976).

Failure to file an instrument required by 43 CFR 3833.2-1 within the prescribed time period conclusively constitutes an abandonment of the claim. 43 CFR 3833.4(a); see 43 U.S.C. § 1744(c) (1976). That is the consequence imposed by the Congress in enacting the statute.

[2] The fact that appellant filed in the county recorder's office does not excuse him from compliance because such filing does not meet the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). Joseph Ojurovich, 54 IBLA 100 (1981). Evidence of assessment work must be timely filed with BLM as well. This Board has no authority to excuse lack of compliance. Lyman Mining Co., 54 IBLA 165 (1981); Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

[3] Those who deal with the Government are presumed to have knowledge of the regulations duly adopted pursuant thereto. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). Under FLPMA, supra, the responsibility for complying with the recordation requirements rests with appellant.

When appellant failed to file timely either evidence of assessment work or notices of intention to hold the claims, BLM properly held the claims to have been abandoned and void. Stephen G. Rudisill, 56 IBLA 158 (1981).

1/ The location notices list the claim names as the "Gund No. I" and "Gund No. II."

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing

Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Douglas E. Henriques
Administrative Judge

